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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Interim final rule.

SUMMARY: This interim final rule implements Pub. L. 105–135, enacted on December 2, 1997, with respect to SBA financing in the pilot Premier Certified Lenders Program (PCLP). The interim final rule extends the pilot to October 1, 2000, and expands the authority of a Certified Development Company (CDC) participating in the PCLP (Premier CDC).

DATES: This rule is effective May 4, 1998. Comments must be submitted on or before July 6, 1998. SBA will publish a final rule after the end of the comment period.

ADDRESSES: Comments should be mailed to Jane Palsgrove Butler, Acting Associate Administrator for Financial Assistance, Small Business Administration, 409 Third Street, S.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, 202–205–6485.

SUPPLEMENTARY INFORMATION: Pub. L. 105–135, the ''Small Business Reauthorization Act of 1997'' (1997 legislation), enacted on December 2, 1997, amends Section 504 of the Small Business Investment Act of 1958 (15 U.S.C. 601 *et seq.*) and requires SBA to promulgate regulations to carry out the amendments. SBA is promulgating this regulation in interim final rule form to enable qualified CDCs to participate in the PCLP Program as soon as possible. Because this regulation merely implements provisions contained in the1997 legislation, SBA is satisfied that the interim final rule poses no risk to SBA's PCLP program. SBA is seeking comments in regards to this interim final regulation. After the 60 day comment period has expired, SBA will issue a final rule.

Changes to PCLP

- The current SBA PCLP is limited to 15 CDCs. The interim final rule will open the program to all qualified CDCs.
- The interim final rule expands and clarifies the authority of a Premier CDC to foreclose, litigate, and liquidate 504 loans made under PCLP.
- The interim final rule clarifies that SBA makes the eligibility determination regarding 504 loans and Borrowers. The Premier CDC makes all other determinations regarding loan approval.
- The interim final rule requires that if there is a default on a Debenture issued under PCLP, the Premier CDC must reimburse SBA for 10 percent of any loss incurred as a result of the default. The amount for which a CDC is liable is referred to as ''Exposure.'' To cover its Exposure, a Premier CDC must maintain a loss reserve of segregated assets. This interim final rule codifies SBA's current interpretation of a loan loss reserve and, in addition, permits a Premier CDC to use irrevocable letters of credit to fund the loss reserve. The criterion for an eligible letter of credit is based on its terms and the strength of the institution making the commitment. The interim final rule defines an eligible letter of credit as one that: (1) is issued by a ''well capitalized bank'' as defined by the Federal Deposit Insurance Corporation (FDIC); (2) has a term equal to or greater than the term of the financings it secures; and (3) is otherwise acceptable to SBA. SBA plans to review the terms of each irrevocable letter of credit to ensure that SBA is protected adequately against loss.
- Currently a Premier CDC is required to maintain a loss reserve equal to the greater of its historic loss rate on its Debentures or 10 percent of its Exposure. The interim final rule limits the calculation of the loss reserve to 10 percent of the Premier CDC's Exposure or 1 percent of the Debentures it issues under PCLP. The Premier CDC must contribute 50 percent of required funds to the loss reserve when a 504 Debenture is closed, 25 percent within 1 year after the Debenture is closed, and 25 percent within 2 years after the Debenture is closed.
- Although a Premier CDC's Exposure is 10 percent of any loss incurred by SBA from a default on a 504 Debenture processed through PCLP, the CDC must contribute only 10 percent of its Exposure (which is only 1 percent of SBA's loss from the default) on each Debenture to the loss reserve. The interim final rule amends the current regulations to clarify that SBA may use all assets in a Premier CDC's loss reserve to reimburse the Agency for the full 10 percent of its loss. If there is not enough in the loss reserve, the interim final rule requires that a Premier CDC pay SBA, within 45 days of demand for the payment, the difference between the Premier CDC's Exposure and the amount withdrawn by SBA from the loss reserve.
- The interim final rule specifies that a Premier CDC must replenish withdrawn loss reserve assets within 30 days with an equivalent amount of assets.
- The interim final rule requires SBA to allow a Premier CDC to withdraw loss reserve assets attributable to any paid off Debenture.
- The interim final rule extends the pilot PCLP to October 1, 2000.
- The interim final rule requires a CDC seeking to participate in PCLP to apply to the SBA field office in which it is most active.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this interim final rule does not constitute a significant rule within the meaning of Executive Order 12866, since it is not likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the U.S. economy.

SBA certifies that this interim final rule does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq*. Last year, SBA made approximately four thousand 504 loans. Currently there are approximately 300 CDCs, less than 15 of which are Premier CDCs. While the 1997 legislation removes the limit on the number of CDCs that can become Premier CDCs, SBA anticipates that, at most, only half of the CDCs would be affected by this rule. Thus the changes to the PCLP implementing the 1997 legislation do not constitute a significant impact on a substantial number of small businesses.

SBA certifies that this interim final rule does not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. chapter 35.

For purposes of Executive Order 12612, SBA certifies that this interim final rule has no federalism implications warranting preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this interim final rule is drafted, to the extent practicable, to accord with the standards set forth in section 2 of that Order.

List of Subjects in 13 CFR Part 120

Loan programs—business, Small businesses.

Accordingly, pursuant to authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends part 120, chapter I, title 13, Code of Federal Regulations as follows:

PART 120—BUSINESS LOANS

1. The authority citation for Part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Revise § 120.845 to read as follows:

§ 120.845 Premier Certified Lenders Program (PCLP).

The SBA has established a pilot program to designate a number of CDCs as Premier Certified Lenders (''Premier CDCs''), and to authorize them to approve, close, service, foreclose, litigate, and liquidate 504 loans subject to SBA regulations, procedures, and policies. A Premier CDC's authority to approve loans under the Program is subject to SBA's determination that the loan and Borrower meet SBA's eligibility requirements.

(a) *PCLP loan approvals.* A Premier CDC notifies SBA of its approval of a PCLP loan by submitting appropriate documentation to SBA's loan processing center. SBA will notify the Premier CDC of the SBA loan number (if it does not identify a problem with eligibility, and funds are available).

(b) *Premier CDC Exposure.* A Premier CDC must reimburse SBA for 10 percent of any loss incurred by SBA as a result of a default by the Premier CDC on a Debenture issued under the PCLP (''Exposure'').

(c) *Loss reserve.* A Premier CDC must establish a loss reserve to pay its Exposure to SBA.

(1) *Assets.* A Premier CDC's loss reserve must be composed of any combination of: segregated funds on deposit in one or more federally insured depository institutions; or irrevocable letters of credit. All loss reserve deposits and letters of credit must be assigned by the Premier CDC to SBA in a manner acceptable to SBA. A Premier CDC's loss reserve deposits in an institution may exceed the institution's insured amount, but only if the institution is ''well capitalized'' as defined in regulations of the Federal Deposit Insurance Corporation, as amended (12 CFR 325.103) (''well capitalized bank''). A loss reserve irrevocable letter of credit must (i) be issued by a well capitalized bank, (ii) have a term equal to or longer than the term of the financings it secures, and (iii) be otherwise acceptable to the SBA.

(2) *Contributions.* A Premier CDC's loss reserve must total 1 percent of the Debentures it issues under the PCLP Program. A Premier CDC must contribute 50 percent of the required loss reserve attributable to each financing when the Debenture it issues to fund the financing is closed, 25 percent within 1 year after the Debenture is closed, and 25 percent within 2 years after the Debenture is closed.

(3) *Reimbursement.* SBA determines a Premier CDC's Exposure on a loan and withdraws the amount necessary to cover the Exposure. If, after full use of any assets in the loss reserve, there are not enough loss reserve assets to cover a Premier CDC's Exposure, the Premier CDC must pay SBA any difference between the Exposure and the loss reserve assets withdrawn by SBA to cover the Exposure within 45 days of a demand for payment by SBA.

(4) *Replenishment.* If SBA withdraws assets from the loss reserve to cover a Premier CDC's Exposure, the CDC must replace the withdrawn loss reserve assets within 30 days of the withdrawal with contributions equal to or greater than the amount of the assets withdrawn.

(5) *Withdrawal.* A Premier CDC may withdraw loss reserve assets attributable to any repaid Debenture upon written approval by SBA.

(d) *Review.* SBA will review a Premier CDC's financings annually.

(e) *Suspension and revocation.* The AA/FA may suspend or revoke a CDC's Premier designation upon written notice stating the reasons for the suspension or revocation at least 10 business days prior to the effective date of the suspension or revocation. Reasons for suspension or revocation may include loan performance unacceptable to SBA, failure to meet loss reserve or eligibility criteria, or violations of applicable statutes, regulations, or published SBA policies and procedures. A Premier CDC may appeal the suspension or revocation made under this section pursuant to the procedures set forth in part 134 of this chapter. The action of the AA/FA shall remain in effect pending resolution of the appeal.

(f) *Applications.* A CDC may obtain information concerning this pilot program from the Office of Program Development in the Office of Financial Assistance at SBA's Headquarters. A CDC may submit its application to the SBA field office in which it is most active. The SBA field office will send the application with its recommendation to the AA/FA for a final decision.

(g) *Acceptance into program.* When determining a CDC's application, SBA will consider the CDC's ability to work with the local SBA office and the quality of past performance.

(h) *Program period.* The PCLP pilot program ends on October 1, 2000.

Dated: April 28, 1998.

Aida Alvarez,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–300–AD; Amendment 39–10511; AD 98–09–30]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–301 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330–301 series airplanes. This action requires a one-time visual inspection to measure clearances between the engine forward feed pipe and shroud sleeve in the engine pylon; and repetitive operational tests for fuel leakage, and replacement of the shroud sleeve with a new improved part, if necessary. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent fuel from leaking into the pylon primary structure and into the engine